

## United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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### NOTICE OF JUDGMENT NO. 2736.

(Given pursuant to section 4 of the Food and Drugs Act.)

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**U. S. v. Loewenthal-Strauss Co. Plea of nolo contendere to counts 1 and 2 of information. Plea of guilty as to counts 3 and 6. Fine, \$25 each on counts 1, 2, 3 and 6, with costs. Counts 4 and 5 nolle prossed.**

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#### **MISBRANDING OF BITTERS; ADULTERATION AND ALLEGED MISBRANDING OF PEPPERMINT EXTRACT COMPOUND AND JAMAICA GINGER EXTRACT COMPOUND.**

On May 8, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in six counts against the Loewenthal-Strauss Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act—

(1) On or about November 11, 1910, from the State of Ohio into the State of Wisconsin, and on or about December 31, 1910, from the State of Ohio into the State of New York, of a quantity of bitters which was misbranded. This product was labeled: (On the bottle) "Invented 1864 by Josef Loewenthal, Berlin Melbourne Berlin Litt-hauer Stomach Bitters Bottled under the supervision of S. Loewenthal son of the sole inventor, Berlin, Germany. Medals awarded. 1896 1879 Berlin, 1891 6 Preise Melbourne 1880. \* \* \*" (On the case) "Litthuanian Stomach Bitters invented 1864 by Josef Loewenthal Berlin Bottled under the supervision of S. Loewenthal son of the former proprietor and sole inventor, Berlin, Germany \* \* \*." Analysis of a sample of the product shipped November 11, 1910, by the Bureau of Chemistry of this Department showed the following results: Alcohol (per cent by volume), 45.8; methyl alcohol, none; coal-tar dye, none found. Analysis of a sample of the product shipped December 31, 1910, showed the following results:

Alcohol, 45.56 per cent; non-volatile residue, 7.30 per cent; ash, 0.002 per cent; alkaloids, none detected; plant extractives, none detected; measure (average of four bottles), 552.5 cc. Misbranding of the product was alleged in the first and second counts of the information for the reason that the label and brands, as above set forth, were false and misleading in that they conveyed the idea and would deceive the purchaser thereof into the belief that the product consisted of ingredients manufactured in Germany, whereas, in truth and in fact, said ingredients were produced in the United States.

(2) On or about July 11, 1911, from the State of Ohio into the State of New Mexico, of a quantity of peppermint extract compound which was adulterated and alleged to have been misbranded. This product was labeled: "Monacco Brand Extract of Peppermint Compound—Extra strong—Formula Solution of Peppermint 800 parts, Hydro-Alcoholic Solution 2000 parts, Trace of Harmless Color. Guarantee \* \* \* 13057". Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity, 15.6°/15.6° C., 0.9414; alcohol (per cent by volume), 46.24; methyl alcohol, none; solids (grams per 100 cc.), 0.052; oil (per cent by volume), by precipitation, trace; polarization of extract, 0.3° V.; coal-tar color, present; color, Light Green S. F. Yellowish; other color present, possibly vegetable, nature not determined. Adulteration of the product was alleged in the third count of the information for the reason that a substance, to wit, dilute alcohol containing but a trace of peppermint oil, had been mixed and packed therewith, in such a manner as to reduce, lower, and injuriously affect its quality and strength, and further, in that a substance, to wit, dilute alcohol containing but a trace of peppermint oil, had been substituted wholly for said article, and for the further reason that the product was colored in a manner whereby its inferiority was concealed. Misbranding was alleged in the fourth count of the information for the reason that the label and brand upon the product, as above set forth, was false and misleading, the product being labeled "Extract of peppermint compound," whereas, in truth and in fact, it was not a standard brand extract of peppermint compound but consisted of a dilute alcohol containing but a trace of peppermint oil.

(3) On or about July 11, 1911, from the State of Ohio into the State of New Mexico, of a quantity of extract of Jamaica ginger compound which was adulterated and alleged to have been misbranded. This product was labeled: "Monacco Brand Extract of Jamaica Ginger Compound—Extra Strong." (Sticker on back of bottle) "Formula Solution Extract of Ginger 100 Parts, Solution Extract of Cayenne 5 parts, Hydro-Alcoholic Solution 1000 Parts. Trace Caramel." (Second sticker): "Guaranty Legend, Register

No. 13057." (Label on case): "Monacco Brand Liqueurs Ginger Extract. The L. S. Co." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity 15.6°/15.6° C., 0.9302; alcohol (per cent by volume), 52.16; methyl alcohol, none; solids (grams per 100 cc.), 0.447; LaWall's test for capsicum, positive; lead subacetate test for caramel, filtrate, colored. Extract on dilution with water remained clear. Showed absence of all but trace of oils and that product contained no genuine extract of ginger, the oils being absent. Adulteration of the product was alleged in the sixth count of the information for the reason that a substance, to wit, capsicum, had been mixed and packed therewith, so as to reduce, lower, and injuriously affect its quality and strength, and further, that a substance, to wit, capsicum, had been substituted in part for ginger in the product, and further, that said product contained caramel, a coloring matter, whereby its inferiority was concealed. Misbranding was alleged in the fifth count of the information for the reason that the labels and brands on the product, as hereinbefore set forth, were false and misleading in that they would deceive the purchaser into the belief that the product was an extra strong extract of Jamaica ginger, whereas, in truth and in fact, it was a dilute extract of Jamaica ginger of less strength than the article commonly known as "ginger extract."

On December 27, 1912, the defendant company entered a plea of nolo contendere to the first and second counts of the information and a plea of guilty to the third and sixth counts of the information, and the court imposed a fine of \$25 on each of said counts, aggregating \$100, with costs of \$28.41. The fourth and fifth counts of the information were nolle prossed.

C. F. MARVIN,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *October 13, 1913.*

